

### **3.600 MAINTENANCE OF ELECTRIC UTILITY RIGHTS OF WAY**

#### **3.610 Accounting**

##### **3.611 Separate Accounts**

Each company shall keep a separate account of all expenses incurred in maintaining transmission or distribution rights of way. The accounts shall be kept in such a way that the following information can readily be extracted:

- (A) Transmission maintenance costs can be segregated from distribution maintenance costs and expressed in dollars per brush-acre; transmission and distribution shall be defined for these rules the same as for FERC Form I reporting.
- (B) Estimates of the average per acre costs for foliar stem treatment, and hand cutting, expressed in dollars per brush-acre.

This information shall be filed with the Board and the Department of Public Service at the same time as the FERC Form 1 or the Department of Public Service annual report is filed.

##### **3.612 Consistency**

This rule shall not be construed to require the use of accounts inconsistent with those mandated by any state or federal regulatory body.

#### **3.620 Notice**

##### **3.621 Personal Notification**

- (A) Persons owning or occupying land lying within 1,000 feet of a utility right of way may request of the utility, in writing, that they be notified individually by mail during the year, but not less than 30 days before, any treatment of the line with herbicides.
- (B) The landowner or resident is responsible for contacting the company, in writing before February 15, to request placement on the mailing list.
- (C) The company may, as an alternative, place all residents of a town in which herbicides are to be used on its mailing list.
- (D) The company may assure itself that a requesting party meets the qualifications of paragraph A, and may drop from its list a person determined not to meet those qualifications.
- (E) The utility shall annually report to the Board and the Department of Public Service the number of written inquiries received concerning notification and the number of notifications actually sent.
- (F) After each maintenance cycle the utility may destroy its mailing list and begin anew; if it does so, it shall include as part of its notice provided in subsection (A) a coupon for the recipient to return for entry on the new list.
- (G) Inadvertent failure to comply with this section shall not raise any presumption of

negligence in any civil action.

**3.622 Information Sheet**

- (A) Each year the Vermont Electric Power Company, Inc., (VELCO) shall prepare an information sheet explaining, in neutral terms:
- (1) Methods of herbicide application used in Vermont.
  - (2) Types of rights of way which are treated.
  - (3) A method to identify the owner of a utility line by examining the poles or other landmarks.
  - (4) How to contact distribution utilities for further information.
  - (5) How to determine whether a particular line is to be treated.
  - (6) The right to notice by mail as set forth in Section 3.621 hereof.
  - (7) The right to alternative treatment methods as set forth in Section 3.640 hereof.
  - (8) The address and telephone numbers, including any toll-free numbers, of the Consumer Affairs Division of the Department of Public Service and of the Plant Industry Section of the Department of Agriculture.
  - (9) The duty of each landowner or resident to make the utility aware of the location of a potentially affected water supply, and of any other environmentally sensitive area where herbicide application ought to be avoided.
  - (10) The fact that herbicide applications may start as early as April 1, so that requests to utilities for notice by mail must, unless waived by the utility, be made by February 15 in order to be placed on the mailing list.
- (B) The information sheet shall be submitted to the Board and the Department of Public Service for review by November 1.
- (C) The information sheet shall be distributed in camera-ready form to the distribution utilities by December 1 of each year.
- (D) The distribution utilities shall print and mail the information sheet to each of their customers, either separately or as a bill stuffer, before February 1 of each year. If editorial comments are added by the utility, they shall be separated from the information sheet content and identified as such.
- (E) If by January 1 of any year a distribution utility files a certificate with the Board and the Department of Public Service which states that no herbicides will be used in that year within that utility's service territory, either by that utility or by any other utility with rights of way within that service territory, the provision of subsection (D) above shall be waived for that year. The Board may require the utility to substantiate its certification.

**3.623 Published Notification**

- (A) VELCO shall also prepare newspaper advertising containing the information required by Section 3.622 above.
- (B) Once each week for four weeks in January, the advertising shall be placed in those newspapers listed in Appendix B of the Department of Agriculture's Regulations for the Control of Pesticides, or any successor list which is used for similar purposes.

### **3.624 Coupon; Costs**

- (A) The mailer required by Section 3.622 and the newspaper advertisements required by Section 3.623 shall each include a coupon for use by a person wishing to exercise the notice privilege created by Section 3.621.
- (B) VELCO shall bear the costs of developing and distributing the information sheet to the distribution utilities as required by Section 3.622 and of creating and causing to be published the advertising required by Section 3.623; provided, however, that VELCO shall be compensated by any other transmission-only company doing business in Vermont, in the proportion that such company's line mileage bears to the total transmission line mileage in the State.

### **3.630 Plans**

#### **3.631 Plan Required**

Each utility, including VELCO, shall submit to the Board and the Department a long-term vegetation management plan which should include:

- (A) A general statement of policy and goals;
- (B) Identification of a biologically sound schedule to achieve long-term objectives, including a specified time interval between original control and subsequent scheduled control;
- (C) Description and identification of the species to be eliminated or controlled, versus the species to be left, in various types of vegetative settings;
- (D) List and description of techniques and conditions under which given mechanical, chemical, and other methods would normally be considered appropriate;
- (E) Procedure for identifying, evaluating, reporting, and responding to right of way maintenance problems;
- (F) Establishment of clearance standards sought, based on voltage of transmission line, and the part of the right of way to be controlled; i.e., central strip, side strip, high visibility, other;
- (G) Establishment of standards and practices for:
  - (1) Wetlands;
  - (2) Wildlife;
  - (3) Erosion control;
  - (4) Aesthetic considerations;
- (H) Establishment of right of way inspection and monitoring standards including frequency of inspection, manner of inspections, and criteria. Standards shall relate to at least the following matters: heights of road-crossing screens or ideal clearance levels, danger trees, evidence of tree-conductor contact, species identification, conditions of sensitive areas, notation of condition of specially or experimentally treated areas;

- (I) Retention of records to coincide with maintenance cycle of the company including right of way inspection dates, maintenance schedules, and maintenance activities;
- (J) Provisions for periodically reviewing, evaluating, and revising the long-range plan, and the time interval for such revisions;
- (K) Provision to assure contractor accountability in implementing the plan.

### **3.632 Exemption**

If a utility believes that it should not be required to have such a plan in place, or that only a brief summary is required because its lines are located solely in urban or other clear areas, it may file instead a request for exemption with the Board, with a copy to the Department of Public Service.

### **3.633 Filing**

Plans shall be filed with the Board and the Department of Public Service.

### **3.634 Consistency**

It shall be no objection to a plan that it includes provisions to comply with the requirements of some other state or federal agency.

### **3.640 Alternatives**

#### **3.641 Alternatives Provided**

- (A) (1) When a landowner whose property is traversed by a utility right of way, the maintenance of which is governed by these regulations, requests of a company in writing that it refrain, from using herbicides in clearing the right of way, the company shall initially offer to perform the work using stump treatment or stem injection only. If the landowner accepts this level of herbicide use, the company shall perform the maintenance work using stump treatment or stem injection methods, free of charge to the landowner. If the landowner refuses the use of any herbicide whatsoever, the company shall be paid the rate determined in subsection (B) below if the right of way is for transmission or subtransmission line; but no payment shall be required if the right of way is for distribution line.
  - (2) The landowner's written request must be delivered to the company not less than 14 days before any scheduled use of herbicides.
  - (3) The terms "stump treatment or stem injection methods" shall, respectively, have the meanings defined in the regulations of the Vermont Department of Agriculture, that is, the placement of herbicide on the cut surface of a stump or inside a wound made with a cutting tool.
  - (4) Payment required under this subsection shall be made to the company not less than 7 days before the scheduled use of herbicides.
- (B) A landowner who elects not to permit any herbicides under subsection (A) above shall pay a charge of \$30 toward the company's administrative costs. A separate charge shall apply for each non-contiguous property with respect to which the election is made; however, a farm or a non-corporate landowner which is not a governmental entity shall not be required to pay more than \$120 to any one utility in any one year.

- (C) The utility company shall perform maintenance in the manner required under (A) or (B) above, provided, however, that the company may require each landowner requesting an alternative method to indicate the location and boundaries of the portion of the right of way concerned. The company may require the landowner or the landowner's agent to mark the property in a distinctive fashion or to attend an on-site meeting with designated maintenance personnel.
- (D) For purposes of this Section 3.641, "landowner" shall include the owner of land which abuts a distribution right of way located along a public highway.
- (E) Each utility shall prepare and send to the Board and the Department by June 15 of each year a statement showing the number of persons who have made an initial request under subsection (A) above, the number who have agreed to stump treatment or stem injection methods, and the number who have refused all use of herbicides. The listing need only cover those rights of way which are chemically treated during the year of submission.